

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 98-059-T - ORDER NO. 98-355

MAY 15, 1998

IN RE: Application of Russell Moving & Storage, ) ORDER  
Inc., 411 Berkeley Drive, Moncks Corner, SC ) GRANTING  
29461, for a Class E Certificate of Public ) CERTIFICATE  
Convenience and Necessity. )

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of Russell Moving & Storage, Inc. (Russell or the Company) of Moncks Corner, South Carolina for a Class E Certificate of Public Convenience and Necessity to transport commodities as follows:

HOUSEHOLD GOODS, AS DEFINED IN R. 103-210(1):

From points and places in South Carolina excluding shipments originating in the following Counties: Abbeville, Anderson, Cherokee, Chester, Greenville, Greenwood, Lancaster, Laurens, Newberry, Oconee, Pickens, Spartanburg, Union and York to all points and places in South Carolina and return to all points and places in South Carolina.

The Company had originally requested approval of statewide authority, but subsequently amended its request downwardly to reflect the above.

The Commission's Executive Director ordered the Applicant to publish, one time, in newspapers of general circulation in the areas of interest, a Notice of Filing, giving details of the proposed service, and a method for public participation in the process. Subsequently, Petitions to Intervene were received from Dale J. Cook Moving & Storage,

Inc., Azalea Moving & Storage, Inc., Carey Moving & Storage, Inc., Carey Moving & Storage of Greenville, Inc., Smith Drayline Moving & Storage, Inc. (2 Petitions), Arrow Moving & Storage, Inc., and Albert H. Kohler DBA Kohler Movers. Subsequent to the downward amendment as listed above, all intervenors withdrew, except for Dale J. Cook Moving & Storage, Inc. and Azalea Moving & Storage, Inc.

Accordingly, a hearing was held on April 30, 1998 at 11:30 am in the offices of the Commission, with the Honorable Guy Butler, Chairman, presiding. Russell was represented by Bonnie D. Shealy, Esquire. The Company presented the testimony of William A. Russell, Jr., Raoul Rushin, and Christopher Nowell. The two intervenors Dale J. Cook Moving & Storage, Inc. (Cook) and Azalea Moving & Storage, Inc. (Azalea) (collectively, the Cooks or the intervenors) were represented by David Popowski, Esquire. Cook presented the testimony of Anthoney P. Cook. Azalea presented the testimony of Jay Cook. The Commission Staff was represented by F. David Butler, General Counsel. The Commission Staff presented no witnesses.

William A. Russell, Jr., President of the Company, testified. Russell stated that he had worked for Azalea as Sales Manager for thirteen years. Russell noted that he saw the need for another local moving company. According to him, Azalea sometimes reaches full capacity for moving, even though the Charleston Naval Base closed. Accordingly, Russell seeks his own authority as a mover. He states that he intends to employ ten people at the beginning. Russell presently owns no trucks, but states that he has a credit line with a bank that will allow him to purchase the necessary equipment to perform moves, if he gets his authority.

Russell states that he has no judgments against him, and that he will follow the Commission regulations if certificated by the Commission.

Russell notes that his moving company would be an asset to the public. He alleges that his company would be available for moves when the larger movers are booked. Russell also notes that he has a verbal commitment for drug testing for his truck drivers.

The Company also presented the testimony of Raoul Rushin, head of the Relocation Department for Coldwell Banker-O'Shaughnessy Realtors, a large Charleston concern. Rushin states that there is a booming real estate market in Charleston, which generates a need for more movers. If Russell gets his authority, Rushin intends to employ his moving services.

Further, Christopher Nowell, Treasurer and Assistant Secretary of Cameron & Barkley testified on behalf of Russell. Nowell is in charge of re-location for Cameron & Barkley. He stated that he would recommend Russell for moves. Nowell stated his belief that there is room for another local mover in the area.

Jay Cook, President of Azalea Moving & Storage, Inc., testified as an intervenor. Jay noted that his focus was on operations before he started his company, and that he has experience in all phases of the moving business. According to Jay, Russell has experience only in sales. Also according to Jay, there is enough capacity presently serving the Low Country for the most part, although there may be a temporary shortage of moving capacity during peak periods.

Anthony Cook repeated Jay Cook's concerns about Russell's lack of general moving experience.

We have examined the testimony, and the entire record in this case, and have concluded that Russell is fit, willing, and able to provide a portion of the requested service to the public, though not the entire service requested in the amended Application. As per the intervenor testimony, Russell appears to lack experience in the operations area of the moving business, but, nonetheless, has had thirteen years of experience in the sales area. We believe that, in the process of hiring his employees, Russell can hire those with more experience in other areas of the moving business to aid him in his new operation.

We note that Russell has no outstanding judgements, and agrees to abide by Commission rules and regulations of the Commission in the operation of his business. We also note, as per the Application, that Russell certifies that he is familiar with all statutes and regulations of the Commission, and the Commission's insurance requirements, and the costs thereof.

Although Russell currently has no equipment, his testimony shows that he has a credit line with a bank that will enable him to obtain the necessary equipment. We therefore hold that he has "otherwise arranged for obtaining necessary equipment to provide the service for which he is applying." See R. 103-133 (1)(b).

We also think that a portion of the proposed service is required by the present public convenience and necessity. Clearly the testimony of Applicant's witnesses Rushin and Nowell shows that there is a market of some sort for Russell's services, despite other

testimony presented about the closing of the Charleston Naval base, and the decrease in the population of Charleston County.

After due consideration of the above, we hold that Russell is fit, willing, and able, and the public convenience and necessity requires the granting of a Class E Certificate of Public Convenience and Necessity to haul household goods. However, we believe that, in addition to the already proposed exclusions of certain counties of origin in South Carolina, certain other counties should also be excluded as points of origin. We also exclude shipments originating in the following additional counties: McCormick, Edgefield, Barnwell, Allendale, Bamberg, Hampton, Chesterfield, Marlboro, and Dillon. We believe that these additional limitations are appropriate, given Russell's particular situation as a start-up company.

We also note two objections from Russell's counsel to the admission into evidence of two documents which were not provided to Russell, even though proper discovery requests were made that should have included such documents in response. These are a copy of the Charleston movers' yellow pages, and a summary of work days for one of the intervenor companies. We sustain the objections. If the documents were not provided subsequent to proper discovery requests, then we will not admit them into the evidence of this case.

IT IS THEREFORE ORDERED THAT:

1. The Application for a Class E Certificate of Public Convenience and Necessity be, and hereby is, approved as follows:

HOUSEHOLD GOODS, AS DEFINED IN R. 103-210(1):

From points and places in South Carolina excluding shipments originating in the following counties: Abbeville, Allendale, Anderson, Bamberg, Barnwell, Cherokee, Chester, Chesterfield, Dillon, Edgefield, Greenville, Greenwood, Hampton, Lancaster, Laurens, Marlboro, McCormick, Newberry, Oconee, Pickens, Spartanburg, Union, and York to all points and places in South Carolina and return to all points and places in South Carolina.

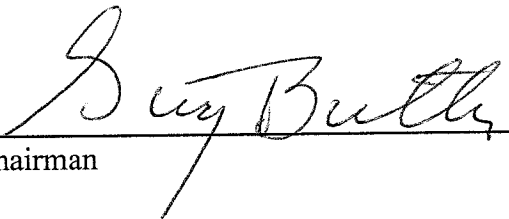
2. The Applicant file the proper license fees and other information required by S.C. Code Ann. Section 58-23-10 et. seq. (1976), as amended, and by R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. That upon compliance with S.C. Code Ann. Section 58-23-10, et. seq. (1976), as amended, and the applicable provisions of R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S. C. Code Ann. Vol. 26 (1976), as amended, a certificate shall be issued to the Applicant authorizing the motor carrier services granted herein.

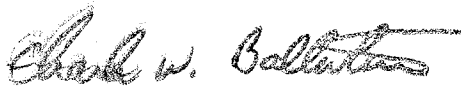
4. That prior to compliance with such requirements and receipt of a certificate, the motor carrier services authorized herein may not be provided.

5. This Order shall remain in effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)